

REMARKS

Claims 1, 7-15, 17, 19-22, 24-27, and 29-37 are pending in the present application. Claims 2-6, 16, 18, 23 and 28 are cancelled herein. Claims 1, 7, 9-10, 17, 19, 24, 27, 29 and 34 are currently amended.

The Examiner rejected Claims 1, 2, 6-15 and 23 under 35 U.S.C. § 102(b) as being anticipated by Fyfe (GB 2,266,771).

Claim 1 is amended herein to more clearly describe the invention by combining the elements of Claims 1 through 6 as originally filed and by claiming that the temperature prediction algorithm includes calculations based on the heater element temperature. Applicants respectfully submit that none of the cited references when considered alone or when combined teach or suggest each of the elements in independent Claim 1 as amended.

Regarding Claim 8, the Examiner indicated that “Fyfe teaches that the temperature control circuit receives input from the at least one temperature sensor and actively controls power to the heater element according to the input using an optimized heater element (see page 4, paragraph 2).” Contrary to the Examiner’s characterization, the referenced section of Fyfe does not teach or suggest an optimized heater control algorithm as claimed. Rather, Fyfe recites “the output signal from the primary temperature sensors 20 and 21, which in the case shown will be a voltage proportional to the difference in temperature between the contact surface 10 and temperature control barrier 12, is connected to an external control circuit (not shown in the diagram), which regulates electrical energy supplied to the heating or cooling device 22 so as to keep the temperature of the controlled barrier 12 very nearly equal to that of the contact surface 10, preferably to within a fraction of a degree C.”

Applicants respectfully submit that the reference does not teach or suggest a temperature control circuit which “actively controls power to said heater element according to said input using an optimized heating control algorithm” as claimed in Claim 8. By virtue of the amendment to Claim 1 presented herein, Claim 8 is further distinguished from Fyfe.

Applicants gratefully acknowledges the Examiner's indication that Claims 18-22 are allowable if rewritten in independent form. Claim 10 is amended herein to include each of the limitations found in allowable Claim 18, and Claim 18 is hereby cancelled. Accordingly, Applicants submit that dependent Claims 11-15, 17 and 19-22 which depend from Claim 10 are in condition for allowance. Claim 23 is cancelled herein. Accordingly, Applicants submit that each of the rejections under 35 U.S.C. § 102 have been overcome.

The Examiner rejected Claims 3-5, 16-17, 25, 27, 34 and 35 under 35 U.S.C. § 103(a) as being unpatentable over Fyfe in view of Fraden (US 6,129,673). Claims 3-5 and 16 are cancelled herein. Claim 17 is currently amended to depend from Claim 10 which Applicants submit is in condition for allowance as amended herein. Claim 25 depends from Claim 10 which Applicants submit is now in condition for allowance as amended herein.

Regarding Claim 34, the Examiner indicated that Fyfe teaches means for thermally isolating a thermometer probe tip including a temperature sensor element from a thermometer probe shaft (Fig. 2, Ref. 12) and means for applying heat to the thermometer probe shaft (Fig. 2, Ref. 22). Regarding Claim 35, the Examiner indicated that "Fyfe teaches means for reading a temperature signal from the temperature sensor element and predicting an equilibrium temperature according to the signal read from the temperature sensor element (see page 4, paragraph 2)." Applicants respectfully submit that Claim 34 is amended herein to more clearly describe the invention by including means for predicting an equilibrium temperature according to said signal read from said temperature sensor element and the temperature of said means for applying heat. Applicants respectfully submit that neither Fyfe nor Fraden when considered alone or together teach or suggest each of the elements in Claim 34 as presently amended. Accordingly, Applicants respectfully request reconsideration of the rejections of Claims 34 and 35 in light of the present amendment.

Applicants gratefully acknowledge the Examiner's indication that Claims 18-22, 24, 26, 28-31, 36 and 37 contain allowable material. Applicants believe that each of the claims as amended are now in condition for allowance.



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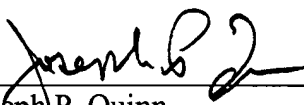
CONCLUSION

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such action is hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below. The Examiner is invited and encouraged to telephone the undersigned with any concerns in furtherance of the prosecution of the present application.

Please charge any deficiency as well as any other fee(s) which may become due at any time during the pendency of this application, or credit any overpayment of such fee(s) to Deposit Account No. 50-0369. Also, in the event any extensions of time for responding are required for the pending application(s), please treat this paper as a petition to extend the time as required and charge Deposit Account No. 50-0369 therefor.

Respectfully submitted,

3/12/04
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